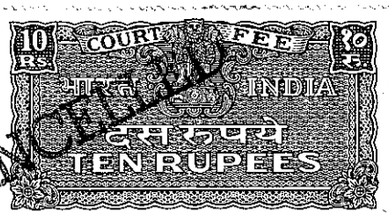

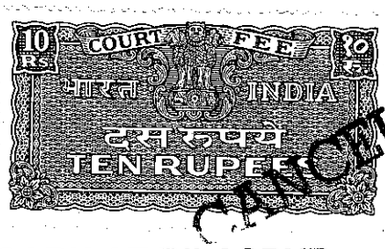

CANCELLED (13) CF204

CANCELLED

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Contempt Petition. NO. 116 /2003

PETITIONER: Ishwar Lodhi S/o Sukhlal Lodhi
Aged about –38Years,Occupation-Business
& Ward Member,R/o-Tehsil Sakti
Distt.Janjgir –Champa (C.G.)

VERSUS

CONTEMNERS: 1.R.M.Dongsare
Chief Municipal Officer
Municipal Council,Sakti
Distt. Janjgir –Champa(C.G.)

2. Shyam Manohar Ujjaini
Sub-Engineer,
Municipal Council,Sakti
Distt. Janjgir –Champa(C.G.)

3.Dr. M.H.Qureshi,
President
Municipal Council,Sakti
Distt. Janjgir –Champa(C.G.)

P.R. No. 2596/03
Presented by Shri A.P. Nayak
Dated 14/11/03

CONTEMPT PETITION UNDER SECTION 12 OF CONTEMPT OF COURTS ACT ,1971 READ WITH ARTICLE 215 OF CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

Cont-Pet-No. 116/03

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	1-1-2004 Shri Vipin Punjabi, Advocate for the petitioner. Heard. 2. This petition has been filed with reference to the order passed by the Lok Adalat. A suit under Section 91 of the C.P.C. was filed by the plaintiff. The case was listed before the Court on 14-2-2003 and 19-2-2003. On 19-2-2003, the matter was referred before the Lok Adalat. The matter was listed before the Lok Adalat on 23-2-2003, the Lok Adalat passed a detailed order. Then it was placed before the Court on 24-2-2003. Thereafter it was placed before the Lok Adalat on 23-3-2003, 27-4-2003 and 29-6-2003. 3. Learned counsel for the petitioner submitted that a suit was filed under Section 91 of the Code of Civil Procedure. Section 91 of C.P.C. reads as under:- "91. **Public Nuisances.-(1)** In the case of a public nuisance or other wrongful act affecting, or likely to affect, the public, a suit for a declaration and injunction or for such other relief as may be appropriate in the circumstances of the case, may be instituted,- (a) By the Advocate-General, or (b) With the leave of the Court, by two or more persons, even though no special damage has	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cont. Pet. No. 116/03 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

been caused to such persons by reason of such public nuisance or other wrongful act.

(2) Nothing in this section shall be deemed to limit or otherwise affect any right of suit which may exist independently of its provisions."

4. The Advocate General has not instituted the suit. It is stated that the leave of the Court was obtained and some portions of the order have been referred to. The grievance made is that some of the works has been done and some has not been done.

5. It is noted that the State of Chhattisgarh was not joined as a party. Notice was not issued to the State nor to the Government Pleader. It is also noted that the Court did not consider the provisions of Section 123 and specially Sub-section 3 of Section 123 of the C.G. Municipal Council Act. Sub-section 3 of Section 123 of the C.G. Municipal council Act is relevant and quoted below:-

"123. **Duties of Council.**-

(1).....

(2) ... ...

(3) No suit for damage or for specific performance shall be maintainable against any Council or any officer or Councillor thereof, on the ground that any of the duties specified in this section has not been performed."

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(51)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

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विरुद्ध

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6. Section 319 of the Act provides for bar of suit in absence of notice. It is noted that provisions of Section 319 of C.G. Municipal Council Act have also not been complied with. Section 319 of the Act reads as under:-

> "319. **Bar of suit in absence of notice.-(1)** No suit shall be instituted against any Council or any Councillor, officer or servant thereof or any person acting under the direction of any such Council, Councillor, officer or servant for anything done or purporting to be done under this Act, until the expiration of two months next after a notice, in writing stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims, has been, in the case of a Council delivered or left at its office, and, in the case of any such member, officer, servant or person as aforesaid, delivered to him or usual place of abode; and the plaint shall contain a statement that such notice has been so delivered or left.
> (2) Every such suit shall be dismissed unless it is instituted within eight months from the date of the accrual of the alleged cause of action.
> (3) Nothing in this section shall be deemed to apply to any suit instituted under Section 54 of the Specific Relief Act, 1877 (I of 1877)."

7. The matter has been settled in Lok Adalat and the Court has passed the order. The orders have been passed in presence of the parties and not in their absence. The petitioner has directly approached this Court under Section 12 of the

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

~~Cont. Pet. No.~~ Cont. Pet-No.116/2003

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित 4	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Contempt of Courts Act. He did not move before the Court concerned on the ground, which are mentioned here. Even otherwise for drawing contempt proceedings, a case has to be made out.

8. Having considered the facts and circumstances of the case and material on record, in the opinion of this Court, the petitioner has failed to make out a case for initiating contempt proceedings invoking jurisdiction under Section 12 of the Contempt of Courts Act. It is noted that petition has been filed without proper scrutiny. Parties have to be careful and this should not be done on casual basis.

9. Accordingly, this petition is disposed of.

Sd/-
Fakhruddin
Judge

Pathak.

YOGENDRA SINGH KANWAR
Digitally signed by YOGENDRA SINGH KANWAR
Date: 2025.04.26 10:52:19 +0530

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